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October 16, 2019

HOW THE ASHLAND ALUMINUM MILL BECAME THE CENTER OF A NATIONAL SECURITY CONTROVERSY

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BY: CHRIS ELLER

Ashland, Kentucky has become the center of a national security controversy involving a \$1.7 billion aluminum rolling mill and Russian investors tied to the Kremlin.^[i] In 2017, Braidy Industries announced plans to build an aluminum mill in Eastern Kentucky with the prospect of adding jobs to the resource-rich area hit hard by the decline in mining and manufacturing.^[ii] Governor Matt Bevin described Braidy Industries' decision as having "the potential to be as significant as any economic deal ever made in Kentucky."^[iii] Even with Governor Bevin providing Braidy Industries with extensive tax breaks and \$15 million in taxpayer money, there was insufficient capital to complete the mill.^[iv] Unexpectedly, Rusal, a Russian firm and the second-largest aluminum company in the world, invested in the project.^[v]

In April 2018, the U.S. government instituted sanctions against Rusal and its holding company EN+, stemming from Russian interference in the 2016 U.S. presidential election.^[vi] In response, aluminum prices around the world spiked as investors in the \$140 billion aluminum industry reacted to the changes.^[vii] Companies doing business with a sanctioned company risked sanctions themselves. In December 2018, the U.S. Treasury Department lifted sanctions after owner Oleg V. Deripaska, a powerful Russian oligarch, gave up majority control of EN+.^[viii] However, sanctions remained on Deripaska himself. Members of Congress moved to reissue the sanctions on EN+ over national security concerns, but Senate Majority Leader Mitch McConnell successfully prevented the reversal.^[ix] Three months after the removal of the sanctions, Rusal made its investment in the Ashland mill.



<https://www.telegraph.co.uk/news/2018/10/08/fbi-freezes-us-assets-putin-ally-oleg-deripaska/>
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Critics allege quid pro quo between McConnell and Deripaska: in exchange for McConnell preventing sanctions, Deripaska invested in a stalled Kentucky project.[x] A recent lobbying disclosure has since revealed that top McConnell staffers lobbied Congress and the Treasury Department for the Ashland project after lobbyists for EN+ alerted McConnell about its investment plans in Kentucky.[xi] Speculation surrounding the deal is fueled by Deripaska's business connection with Len Blavatnik, a Ukrainian-born billionaire who earned his fortune by buying newly privatized aluminum plants after the fall of the Soviet Union.[xii] Blavatnik's businesses donated \$3.5 million to McConnell's Super Pac from late 2015 to March 2017.[xiii]

Senator McConnell responded to the allegations of a quid pro quo, stating that the lifting of the sanctions was "completely unrelated to anything that might happen in my home state." [xiv] The U.S. Department of the Treasury issued a statement distinguishing the sanctions placed on Deripaska and those on Rusal: "Treasury sanctioned these companies because of their ownership and control by sanctioned Russian oligarch Oleg Deripaska, not for the conduct of the companies themselves...The companies will be subject to ongoing compliance and will face severe consequences if they fail to comply." [xv]

According to one study on the economic impact of the mill, Braidy will create 18,000 new jobs and generate \$1.54 billion for Eastern Kentucky and \$2.8 billion for the Commonwealth by 2021. [xvi] Despite the economic optimism expressed by the company, lingering concerns over the project remain. In May, congressional Democrats called for an immediate review of the investment deal by writing to the Treasury Secretary that "...a company that is majority-owned by a U.S.-sanctioned Russian national and Russian state bank — in an American aluminum mill, raises serious questions of national security." [xvii]

Given the seriousness of the allegations against Senator McConnell and Rusal, it would be wise to consider if the benefits that the Ashland mill may create are worth the negative attention from lawmakers and the press, and, more importantly, the potential risk to national security. Creating new jobs in Kentucky should be a priority, but the concerns over national security are legitimate. Once a foreign company makes a major investment in the state, they will likely have the political force to influence voters and lawmakers should the opportunity arise. Done frequently enough, the impact could be substantial. While it is tempting to jump to conclusions given Rusal's ties to the Kremlin and the 2016 election, skeptics should exercise caution and verify the allegations. An inquiry into how the investment developed and the effects of the mill should be welcomed. In the meantime, judgment should be reserved until all of the facts have been analyzed.

[i] Morgan Watkins, *Braidy Industries extends stock sale deadline again to fund \$1.7B mill*, Louisville Courier Journal (March 28, 2019), <https://www.courier-journal.com/story/news/2019/03/28/braidy-industries-still-seeks-funds-kentucky-aluminum-mill/3302812002/>.

[ii] *Braidy Industries Inc. to Spend \$1.3 billion to Build the Highest Quality, Lowest Cost Auto Body Sheet and Aerospace Plate Aluminum Rolling Mill in the United States*, Braidy Industries Press Release (April 26, 2017), <http://www.braidyindustries.com/2017/04/26/braidy-industries-press-release/>.

[iii] *Id.*

[iv] Sydney Boles, *From Russia, With Loot: KY Aluminum Company's New Russian Partner Raises Concerns*, Ohio Valley Resource (May 10, 2019), <https://ohiovalleyresource.org/2019/05/10/from-russia-with-loot-ky-aluminum-companys-new-russian-partner-raises-concerns/>.

[v] Kenneth P. Vogel, *Trump Administration to Lift Sanctions on Russian Oligarch's Companies*, The New York Times (Dec. 19, 2018), <https://www.nytimes.com/2018/12/19/us/politics/sanctions-oleg-deripaska-russia-trump.html>.

[vi] *Id.*

[vii] John Sjöholm, *Aluminum price surge after US-Russia sanctions threatens worldwide production and availability*, Lima Charlie News (April 21, 2018), <https://limacharlienews.com/business/aluminium-russia-sanctions/>.

[viii] Igor Derysh, *Former Mitch McConnell aides lobbied for sanctioned Russian company to build plant in Kentucky*, Salon (August 2, 2019), <https://www.salon.com/2019/08/02/former-mcconnell-aides-lobbied-for-sanctioned-russian-company-to-set-up-shop-in-kentucky/>.

[ix] *Id.*

[x] Ernie Yanarella, *How to speak Russian to Sen. Mitch McConnell*, Lexington Herald-Leader (Sept. 16, 2019), <https://www.kentucky.com/opinion/op-ed/article234973552.html>.

[xi] Natasha Bertrand and Theodoric Meyer, *Ex-McConnell staffers lobbied on Russian-backed Kentucky project*, Politico (July 31, 2019), <https://www.politico.com/story/2019/07/31/mcconnell-staffers-lobbied-russian-backed-kentucky-project-1442550>.

[xii] Devon Pendleton, *The Meteoric Rise of Billionaire Len Blavatnik*, Bloomberg (April 26, 2019), <https://www.bloomberg.com/news/features/2019-04-26/the-meteoric-rise-of-billionaire-len-blavatnik>.

[xiii] Annie Anderson, *New Billboards following Russian investment in Braidy Industries*, Spectrum News (May 23, 2019), <https://spectrumnews1.com/ky/lexington/top-stories/2019/05/23/new-billboards-following-russian-investment-in-braidy-industries>.

[xiv] *Id.*

[xv] Press Release, U.S. Department of the Treasury, *OFAC Notifies Congress of Intent to Delist En+, Rusal, and EuroSibEnergo* (Dec. 19, 2019) (<https://home.treasury.gov/news/press-releases/sm576>).

[xvi] *Braidy Industries Secures Partnership for America's First Low- Carbon, High Value Aluminum Mill*, Press Release from Braidy Industries, Inc. (April 14, 2019), <https://www.prnewswire.com/news-releases/braidy-industries-secures-partnership-for-americas-first-low--carbon-high-value-aluminum-mill-300831787.html>.

[xvii] Letter from Sherrod Brown, Ranking Member of Senate Committee on Banking, Housing, and Urban Affairs to Steven Mnuchin, Secretary of the Treasury, U.S. Department of the Treasury (May 16, 2019) (on file with author).

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